

BEFORE THE HONORABLE BOARD OF PATENT APPEALS AND INTERFERENCES
UNITED STATES PATENT AND TRADEMARK OFFICE

APPELLANT : Gorsev Pristine
APPLICATION NO. : 10/733,345
TITLE : SYSTEM AND METHOD FOR INTAKE OF A PATIENT
IN A HOSPITAL EMERGENCY ROOM
FILING DATE : December 12, 2003
EXAMINER : ALTSCHUL, Amber L.
GROUP ART UNIT : 3686
ATTORNEY DOCKET NO. : P1977US00
CUSTOMER NO. : 54640
CONFIRMATION NO. : 7456

REPLY BRIEF

United States Patent and Trademark Office
P.O. Box 1450
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Honorable Board:

This Reply Brief responds to the Examiner's Answer dated October 13, 2010, and is filed in support of the appeal from the final rejection set forth in the Office Action mailed on January 21, 2010.

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Status of Claims:

Claims 1 - 18 (Rejected)

Claims 1 - 18 are being appealed.

Grounds of Rejection to be Reviewed on Appeal:

Claims 1-18 remain rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2002/0077865 (Sullivan) in view of U.S. Patent No. 6,151,581 (Kraftson).

Arguments:

In the Examiner's Answer, claims 1-18 remain rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2002/0077865 (Sullivan) in view of U.S. Patent No. 6,151,581 (Kraftson). In addition to the further arguments presented below, Applicant relies on the arguments presented in the Appeal Brief filed July 26, 2010.

The Claimed Subject Matter

Before addressing the claim rejections in specific terms, Applicant believes that it may be advantageous to provide a brief discussion of the claimed subject matter in broader terms.

The subject matter of the present application is directed to methods, computing devices and systems which streamline the waiting room process in medical facilities, such as hospital emergency rooms. In particular, better use is made of the time patients must often wait for treatment by automating the patient intake interview and thereby reducing pressure on hospital staff. Wait times can also be reduced as a result of this automation.

The prior art cited fails to contemplate patient intake. On the contrary, Sullivan is directed to risk management in relation to diagnosis and treatment, events that often span significant lengths of time, and necessarily take place after patient intake from the waiting room. Kraftson also relates solely to post-intake procedures, and to the collection and storage of data derived from those procedures.

The subject matter of the present application therefore addresses issues which neither Sullivan nor Kraftson contemplate, let alone make any attempt to address.

Missing Limitations

Applicant respectfully submits that the Examiner's asserted combination of Sullivan and Kraftson fails to satisfy each and every limitation of the claims. In particular, Applicant submits that the Examiner's asserted combination of Sullivan and Kraftson fails to satisfy the following limitations of claim 1, as well as the similar limitations recited in claims 8, 15 and 16:

"...further operable to present on said touch screen at least one main question and a plurality of dependent questions presented based on a response to said main question and responses to previous dependent questions..." (the "First Missing Limitation")

"...said questions pertaining to an intake procedure of said patient to said hospital...said device further operable to generate an intake report based on said responses in a preferred language of a hospital staff member responsible for further processing of said intake of said patient" (the "Second Missing Limitation")

Applicant also submits that the asserted combination of Sullivan and Kraftson fails to satisfy the following limitation of claim 16:

"said system further comprising a plurality of treatment room clients connected to said intake server, said treatment room clients including an output device operable to present said intake reports" (the "Third Missing Limitation")

First Missing Limitation

The First Missing Limitation reads as follows:

“...further operable to present on said touch screen at least one main question and a plurality of dependent questions presented based on a response to said main question and responses to previous dependent questions...”

The “Response to Argument” section beginning at page 12 of the Examiner's Answer does not address the arguments presented in the Appeal Brief in connection with the First Missing Limitation, but merely cites the passages of Kraftson cited in the Final Rejection. Applicant respectfully submits that the asserted combination of Sullivan and Kraftson fails to satisfy the First Missing Limitation for reasons already discussed in the Appeal Brief. Restated briefly, those arguments are as follows: Kraftson provides, at best, a single question depending on a binary answer to a single previous question. In contrast, the subject matter of Applicant's claims provides for the presentation of a plurality of dependent questions, each of which is selected for presentation based on a plurality of previous responses.

Second Missing Limitation

The Second Missing Limitation reads as follows:

“...said questions pertaining to an intake procedure of said patient to said hospital...said device further operable to generate an intake report based on said responses in a preferred language of a hospital staff member responsible for further processing of said intake of said patient”

Regarding the Second Missing Limitation, the Response to Argument section of the Examiner's Answer also does not address the arguments presented in the Appeal Brief. Applicant, however, wishes to provide additional discussion

relating to the Second Missing Limitation.

The Examiner asserted, both in the Examiner's Answer and earlier, that "Sullivan's templates containing fields into which data may be entered is an art recognized equivalent to applicant's preferred intake reports." Applicant notes that, as set out in *Phillips v. AWH Corp.* [75 USPQ2d 1321] (quoting *In re Am. Acad. of Sci. Tech. Ctr.* [70 USPQ2d 1827]), claims are to be given the broadest reasonable interpretation "in light of the specification as it would be interpreted by one of ordinary skill in the art." See also MPEP, section 2111. Applicant submits that the Examiner's reading of "intake report" as recited in the claims is inconsistent with the above legal principles.

Specifically, Applicant submits that a person skilled in the art, in light of the specification, would clearly understand that an intake report is not merely a construct which "intakes" data, such as Sullivan's templates. On the contrary, the skilled person would readily understand that the meaning of the term "intake" as recited in the claims refers to patient intake; that is, to the introduction of a patient into a medical facility such as a hospital. See, for example, the preamble of claim 1 and paragraph [0004] of Applicant's specification. An example of such an intake report is shown in Figure 11, which shows a concise summary of the answers provided to the various questions presented by Applicant's computing device; such a report can be presented to a clinician after patient intake, to facilitate diagnosis. In general, the "intake report" recited in the Second Missing Limitation would readily be interpreted by the skilled person as a report relating to patient intake.

Therefore, the templates of Sullivan, which include fields into which data can be entered, are clearly not equivalent to Applicant's intake report.

Further, as Applicant has argued previously, the Examiner has still not clarified which elements of Sullivan are considered to be equivalent to Applicant's intake reports. The Examiner referred to Sullivan's templates, but cited portions of Sullivan that describe reports which are entirely unrelated to those templates. As seen above, the templates are not equivalent to Applicant's intake report. In addition, as pointed out in the Appeal Brief, the reports of Sullivan cannot possibly be "intake reports" based on questions pertaining to an "intake procedure" as a person skilled in the art would readily understand those terms in light of Applicant's specification, because Sullivan's reports depend on events which necessarily take place long after patient intake (e.g. patient discharge, as in paragraph [0132] of Sullivan). More generally, as noted above in the discussion of the claimed subject matter, Sullivan fails to even contemplate patient intake, and therefore cannot provide the intake-related functionality defined by Applicant's claims.

Thus, the asserted combination of Sullivan and Kraftson fails to satisfy the Second Missing Limitation.

Third Missing Limitation

The Third Missing Limitation reads as follows:

"said system further comprising a plurality of treatment room clients connected to said intake server, said treatment room clients including an output device operable to present said intake reports"

The "Response to Argument" section of the Examiner's Answer fails to make any attempt whatsoever to address the arguments presented in the Appeal Brief in connection with the Third Missing Limitation. Applicant therefore continues to rely on those arguments, and wishes to emphasize that the Examiner illogically

cited a single element of Sullivan's disclosure (the portable computer mentioned at paragraph [0075]) as satisfying multiple distinct elements of claim 16 – the computing device and the treatment room clients. The asserted combination of Sullivan and Kraftson therefore fails to satisfy the Third Missing Limitation.

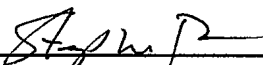
Lack of Rational Underpinning

Applicant further submits that the Examiner has failed to provide the requisite rational underpinning to support the claim rejections. As noted in the Appeal Brief, no evidence or reasoned argument was presented in support of the stated motivation, and this unsupported motivation is simply repeated in the Examiner's Answer. Applicant therefore continues to rely on the arguments presented in the Appeal Brief.

Conclusion

Applicant submits that the claims are patentable for the reasons discussed above. Applicant therefore respectfully requests that the Honorable Board issues a decision overturning the final rejection and remands this application to the Examiner for issuance of a Notice of Allowance and a Notice of Allowability consistent with such decision.

Respectfully submitted,



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December 13, 2010